

ORDINANCE NO. 6263

AN ORDINANCE ADDING SUBCHAPTER 5.78 TO THE HILLSBORO MUNICIPAL CODE, ENCOURAGING THE USE OF DURABLE, REUSABLE SHOPPING BAGS AND RESTRICTING THE DISTRIBUTION OF SINGLE USE PLASTIC BAGS

WHEREAS, the City Council has adopted environmental sustainability goals for both the City organization and the broader community, including goals to reduce the generation of solid waste; and

WHEREAS, the Youth Advisory Council, through its Sustainable Shopping Initiative, seeks to help address environmental problems associated with single-use, disposable products in retail establishments and restaurants; and

WHEREAS, the City seeks to encourage a shift from use of single-use products to the use of durable, reusable products; and

WHEREAS, environmental sustainability is an integral part of the Hillsboro 2035 Community Plan and the City is committed to preserving and protecting our vital natural resources for generations to come; and

WHEREAS, single-use plastic bags can act as environmentally degrading pollutants, and pose threats to local and global ecosystems; and

WHEREAS, it has been found that single-use plastic bags, when mistakenly deposited in commingled recycling bins, can place a significant burden on local recycling facilities.

NOW, THEREFORE, THE CITY OF HILLSBORO ORDAINS AS FOLLOWS:

Section 1. Chapter 5 of the Hillsboro Municipal Code is amended by adding Subchapter 5.78, entitled "Single-Use Plastic Carryout Bags," to read as set forth in Exhibit "A."

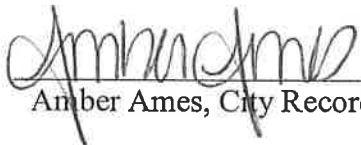
Section 2. The Sections, Subsections, Paragraphs and clauses of this ordinance are severable. The invalidity of one Section, Subsection, Paragraph or clause shall not affect the validity of the remaining Sections, Subsections, Paragraphs or clauses.

Section 3. This ordinance shall be effective from and after 30 days following its passage and approval by the Mayor.

First approval of the Council on this 6th day of November, 2018.

Second approval and adoption by the Council on this 20th day of November, 2018.

Approved by the Mayor this 20th day of November, 2018.

ATTEST: _____
Amber Ames, City Recorder


_____
Steve Callaway, Mayor

Exhibit A

CHAPTER 5: BUSINESS LICENSES AND REGULATIONS

SUBCHAPTER 5.78

SINGLE-USE PLASTIC CARRYOUT BAGS

5.78.010 Purpose. The purpose of this subchapter is to encourage the use of durable, reusable bags and to prohibit use of single-use plastic carryout bags at retail establishments, food providers, city facilities, city managed concessions, city sponsored events and/or city permitted events, and to require retailers to charge not less than five cents when providing a paper bag to a customer.

5.78.020 Promotion of Reusable Bags. The city will work to encourage community members and businesses to limit and reduce the use of single-use, disposable retail items. Retail establishments are strongly encouraged to educate their staff to promote reusable bags and to post signs encouraging customers to use reusable bags.

5.78.030 Definitions. For purposes of this subchapter, the following terms are defined as follows:

1. Carryout bag. Any bag that is provided by a retail establishment or food provider at the point of sale to a customer for use to transport or carry away purchases, such as merchandise, goods or food, from the retail establishment or food provider. "Carryout bag" does not include:
 - a. Bags used by consumers inside retail establishments or food provider to:
 - i. Package bulk items, such as fruit, vegetables, nuts, grains, candy or small hardware items;
 - ii. Contain or wrap meat, fish, or frozen foods, whether packaged or not;
 - iii. Contain or wrap flowers, potted plants, or other items where dampness may be a problem;
 - iv. Contain unwrapped prepared foods or bakery goods; or
 - v. Pharmacy prescription bags.
 - b. Laundry dry cleaning bags or bags sold in packages containing multiple bags intended to be used for home food storage, garbage waste, pet waste, or yard waste; or
 - c. Product bags.
2. City sponsored event. Any event organized or sponsored by the city or any department of the city.
3. Customer. Any person obtaining goods or food from a retail establishment or food provider.
4. Food provider. Any person in the city that exclusively provides prepared food for public consumption on or off its premises.

5. Pharmacy. A retail establishment where a pharmacist licensed by the State of Oregon's Board of Pharmacy practices pharmacy and where prescription medications are offered for sale.
6. Product or produce bag. Any bag without handles provided to a customer for use within a retail establishment or food provider to assist in the collection or transport of products to the point of sale. A product or produce bag is not a carryout bag.
7. Recyclable paper bag. A paper bag that is 100% recyclable and contains a minimum of 40% post-consumer recycled content.
8. Retail establishment. Any person located within or doing business within the geographical limits of the city that sells or offers for sale goods at retail.
9. Reusable bag. A bag made of cloth or other material with handles that is specifically designed and manufactured for long-term multiple reuses and meets all of the following requirements:
 - a. If cloth, is machine washable; or
 - b. If plastic, has a minimum plastic thickness of 4.0 mils; and
 - c. Does not contain lead, cadmium, or any heavy metal in toxic amounts as defined by applicable state and federal standards and regulations for packaging and reusable bags.
10. Single-use plastic carryout bag. Any plastic carryout bag made predominately of plastic, either petroleum or biologically based, and made available by a retail establishment or food provider to a customer at the point of sale. It includes compostable and biodegradable bags but does not include reusable bags, recyclable paper bags, or product or produce bags.
11. Undue hardship. Circumstances or situations unique to the particular retail establishment or food provider which results in no reasonable alternatives to the use of single-use plastic carryout bags or which results in the inability to collect a recyclable paper bag pass-through.

5.78.040 Regulations. Except as exempted in 5.78.060 of this subchapter:

1. Retail establishments and food providers shall not provide or make available to a customer a single-use plastic carryout bag; and
2. No person shall distribute or provide a single-use plastic carryout bag at any city facility, city managed concession, city sponsored event, or city permitted event.

5.78.050 Cost Pass-Through. When a retail establishment with more than 10 full-time-equivalent employees makes a recyclable paper bag available to a customer at the point of sale, the retail establishment shall:

1. Charge the customer a reasonable pass-through cost of not less than five cents per recyclable paper bag provided to the customer; and not rebate or otherwise reimburse any customer any portion of the pass-through cost; and
2. Except for the exemptions in 5.78.060, indicate on the customer's transaction receipts the total amount of the recyclable paper bag pass-through charge.

5.78.060 Exemptions. Notwithstanding 5.78.040 and 5.78.050 of this subchapter:

1. Retail establishments with 10 or fewer full-time equivalent employees and food providers may charge for provided paper bags but are not required to do so. If such establishments do charge for paper bags, they are exempt from the requirement to note the cost on receipts.
2. Retail establishments or food providers may distribute product bags and make reusable bags available to customers whether through sale or otherwise.
3. A retail establishment or food provider shall provide a reusable bag or a recyclable paper bag at no cost at the point of sale upon the request of a customer who uses:
 - a. A voucher issued under the Women, Infants and Children Program established in the Oregon Health Authority under ORS 413.500; or
 - b. An Electronic Benefits Transfer (EBT) card, such as an Oregon Trail Card, to access Supplemental Nutrition Assistance Program (SNAP) benefits.
4. Retail establishments at retail fairs such as a farmers' market or holiday fair are not subject to indicating on the customer's transaction receipt the total amount of the recyclable paper bag pass-through charge required in 5.78.050.
5. The provisions of this subchapter shall be effective:
 - a. June 1, 2019, for retail establishments with more than 10 full-time equivalent employees except as noted in 5.78.060(5)(b)(4); and
 - b. January 1, 2020, for:
 1. Retail establishments with 10 or fewer full-time equivalent employees;
 2. Food providers;
 3. Persons at city facilities, city managed concessions, city sponsored events, and city permitted events; and
 4. Retail establishments with more than 10 full-time equivalent employees at a city facility, city managed concession, city sponsored event or city permitted event.
6. The City Manager or their designee may exempt a retail establishment or food provider from the phase-in period set forth in 5.78.060(5) for a period of not more than six months upon the retail establishment or food provider showing, in writing, that this subchapter would create an undue hardship or practical difficulty not generally applicable to other persons in similar circumstances. The decision to grant or deny an exemption will be in writing, and the City Manager's or designee's decision will be final.

5.78.070 Violations and Penalties. The city will support, through education and resources and to the greatest extent practicable, businesses in the application of this policy. Following the phase-in period provided in 5.78.060(5), any retail establishment or food provider violating this subchapter is subject to:

1. Upon the first violation in a calendar year, the Enforcement Officer will provide education and information about the policy, and will issue a warning to the retail establishment or food provider that a violation has occurred.
2. Subsequent violations are a civil infraction as provided in HMC subchapter 1.08.